

that one of two doses usually gave relief to periodic headaches of women; and that it does not upset the stomach.

On August 30, 1939, the claimant filed an amended answer, which denied the misbranding charges and challenged the constitutionality of the Federal Food, Drug, and Cosmetic Act on the grounds: first, that it provided for unlawful search and seizure; and second, that it was too general and uncertain in its provisions.

On January 2, 1940, the claimant having represented to the court that since the commencement of the several libel proceedings it had changed the formula of the product manufactured and sold by it, and the said claimant having consented to the entry of a decree, judgment of condemnation and forfeiture was entered. The decree contained the following provision: "*Ordered, Adjudged, and Decreed*, That this is a proceeding in rem and that this decree is to be without prejudice to the rights of the United States of America or of the said claimant. The Emerson Drug Company of Baltimore City, in any other litigation, and without prejudice to the right of the claimant to deny in any other or future litigation that the libeled product herein is misbranded or otherwise violates the provisions of the Federal Food, Drug and Cosmetic Act, the court having taken no proof in support of the allegations of the libel and answer."

On January 8, 1940, an order was entered by the court providing for release of the product under bond conditioned that the citric acid and the bottles be salvaged, and that the remaining ingredients of the product be destroyed.

DRUGS SEIZED BECAUSE OF DEVIATION FROM OFFICIAL OR OWN STANDARDS OR BECAUSE OF SUBSTITUTION¹

VITAMIN PREPARATIONS

82. Adulteration and misbranding of cod liver oil. U. S. v. One 30-gallon Drum and Three 38-pound Drums of Cod Liver Oil. Default decree of condemnation and destruction. (F. D. C. Nos. 1082, 1083. Sample Nos. 55959-D, 55960-D.)

One lot of this product contained not more than 42.5 A. O. A. C. chick units of vitamin D per gram; whereas the United States Pharmacopoeia requires that cod liver oil shall contain not less than 85 U. S. P. units of vitamin D per gram (an A. O. A. C. chick unit of vitamin D is by definition the equivalent of a U. S. P. unit of vitamin D). The other lot was labeled as containing 400 U. S. P. vitamin D units per gram and 8,000 U. S. P. vitamin A units per gram, but contained not more than 50 A. O. A. C. chick units of vitamin D per gram and not more than 1,580 units of vitamin A per gram.

On November 28, 1939, the United States attorney for the Western District of Michigan filed a libel against one 30-gallon drum of cod liver oil and three 38-pound drums of cod liver oil at Petoskey, Mich., alleging that the article had been shipped in interstate commerce on or about September 15, 1939, by the Val-A Co. from Chicago, Ill.; and charging that it was adulterated and misbranded. It was labeled in part, "Val-A 'Cavalier'."

One lot of the article was alleged to be adulterated in that it was represented as a drug the name of which is recognized in an official compendium, and its strength differed from, and its quality and purity fell below, the standard set forth in such compendium. It was alleged to be misbranded in that the representation in the labeling that it contained 85 A. O. A. C. units of vitamin D was false and misleading.

The remaining lot was alleged to be adulterated in that its strength differed from, and its purity and quality fell below, that which it purported or was represented to possess. It was alleged to be misbranded in that the representations in the labeling that it contained 400 U. S. P. vitamin D units per gram and 8,000 U. S. P. vitamin A units per gram, were false and misleading.

On January 4, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

83. Adulteration and misbranding of cod liver oil. U. S. v. 4 Drums of Cod Liver Oil. Default decree of condemnation and destruction. (F. D. C. No. 700. Sample No. 48434-D.)

This product was labeled as containing 200 A. O. A. C. chick units of vitamin D per gram, whereas it contained not more than 135 such units of vitamin D per gram.

On October 9, 1939, the United States attorney for the District of Minnesota filed a libel against four 30-gallon drums of cod liver oil at Waseca, Minn.,

¹ See also N. J. Nos. 96 (Booth's Camphorated Oil and Carbolic Salve), 115, and 123.

alleging that the article had been shipped in interstate commerce on or about July 18, 1939, by the Consumers Import Co., Inc., from New York, N. Y.; and charging that it was adulterated and misbranded. It was labeled in part: "Deluxe 200 U. S. P. Non-destearinated Cod Liver Oil."

It was alleged to be adulterated in that its strength differed from and its purity fell below that which it purported or was represented to possess.

It was alleged to be misbranded in that the representation on the drum that it had a guaranteed potency per gram of 200 A. O. A. C. units of vitamin D, was false and misleading as applied to an article containing less than that number of chick units of vitamin D per gram.

On January 30, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

84. Adulteration of Hydeceryl. U. S. v. 20 Drums of Hydeceryl. Consent decree of condemnation. Product released under bond for relabeling. (F. D. C. No. 350. Sample No. 45777-D.)

This product was represented to contain 85 U. S. P. units of vitamin D per gram, whereas it contained not more than 50 such units per gram.

On August 12, 1939, the United States attorney for the Northern District of Illinois filed a libel against 20 drums of Hydeceryl at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about December 31, 1938, by the Industrial Oil Products Corporation from Los Angeles, Calif.; and charging that it was adulterated in that its strength differed from and its quality fell below that which it purported or was represented to possess, namely, not less than 85 U. S. P. units per gram. It was labeled in part: (Drum) "Murray Oil Products Company * * * Hydeceryl."

On January 12, 1940, A. C. Trask Co., a corporation, Chicago, Ill., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be properly relabeled.

85. Misbranding of Old Man Frantz Mountain Tonic. U. S. v. 36 Bottles of Old Man Frantz Mountain Tonic. Default decree of condemnation and destruction. (F. D. C. No. 1201. Sample No. 78890-D.)

The labeling of this product bore false and misleading representations regarding its content of vitamin A, and its efficacy in the conditions indicated hereinafter.

On December 16, 1939, the United States attorney for the Northern District of Ohio filed a libel against 36 bottles of the above-named product at East Liverpool, Ohio, alleging that the article had been shipped in interstate commerce on or about November 17, 1939, by Old Man Frantz from Pittsburgh, Pa.; and charging that it was misbranded.

Biological tests showed that each fluid ounce contained 178 U. S. P. units of vitamin A, 400 International Units of vitamin B₁, 334 International Units of vitamin C, and not more than 251 U. S. P. units of vitamin D.

The article was alleged to be misbranded in that its labeling bore representations that it contained vitamin A and directions that it should be taken in dosages of 1 ounce each day for normal persons, or 2 ounces each day for those who require an extra amount of vitamins, which were false and misleading since the article, if taken in accordance with the directions, would not provide a significant amount of vitamin A. It was alleged to be misbranded further in that its labeling bore representations that it was efficacious to increase pep, vim, vigor, and vitality; that it "would build up"; that it was efficacious for "that run-down feeling," nervousness, lack of appetite, lack of vigor and ambition; that it was a vitamin tonic; would aid in maintaining resistance to infections; that it was efficacious for lack of vigor, poor appetite, dry skin, diarrhea, poor teeth, sterility and weakness; would stimulate the appetite and aid digestion and assimilation; that it was efficacious for digestive disturbances, poor assimilation, poor lactation, atrophy of glands, gastric atony, head retraction; that it would improve appetite and stimulate the growth essential to tissue respiration and glandular functions; that it was efficacious for headache, low fertility, failure of male germ cells to develop; that it was antipellagic; would improve growth, promote health, prolong the active life span; was essential in the nerve tissues; that it was efficacious for dermatitis, breakdown of central nervous system, cataract (riboflavin factor) loss of hair, ulceration of tongue, loss in body weight of intestines and atony, which representations were false and misleading since the article was not efficacious for the purposes recommended.